

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BARRY C. ROWE,

Petitioner,

vs.

STATE OF NEVADA, *et al.*,

Respondents.

3:04-cv-00444-PMP-VPC

ORDER REOPENING CASE

Petitioner has filed a motion seeking to reopen this habeas corpus case (docket #89). Respondents have responded to the motion (docket #90) indicating no objection and stating the intention to reserve any defenses or objections to the claims raised. Petitioner also files a motion for appointment of counsel (docket #88).

This action was dismissed without prejudice, and the case closed administratively, pursuant to an Order entered October 26, 2007 (docket #71). The dismissal resulted from petitioner's request for stay order to allow him to return to state court to exhaust his state-court remedies with respect to certain of his grounds for relief. In the Order dismissing the case, the Court indicated that this case is subject to being reopened upon a motion by petitioner. *See id.*

Petitioner's further state-court proceedings have apparently concluded, and petitioner has now returned to this Court seeking to reopen this case. Respondents do not object to the case being reopened. The Court will therefore grant petitioner's motion to reopen this case. Petitioner has also filed a Second Amended Petition (docket #90). There is no certificate of service attached to

1 the petition indicating whether the petition was served upon respondents.

2 Petitioner's motion for appointment of counsel shall be denied. The petition is
3 presented in a clear format and the claims raised are well presented. The motion presents nothing
4 that has not already been presented and considered by this court.

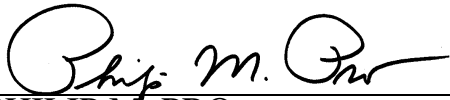
5 **IT IS THEREFORE ORDERED** that petitioner's Motion for Appointment of
6 Counsel (docket #88) is **DENIED**.

7 **IT IS FURTHER ORDERED** that petitioner's Motion to Reopen Case (docket #89)
8 is **GRANTED**.

9 **IT IS FURTHER ORDERED** that the Clerk shall **REOPEN THIS FILE**.

10 **IT IS FURTHER ORDERED** that Respondents shall have **forty-five (45) days**
11 from entry of this order to answer or otherwise respond to the amended petition found in the court
12 record at docket #90

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14 DATED: July 13, 2010.

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17 PHILIP M. PRO
18 United States District Judge
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